DAMAGES — MENTAL DISTRESS AS ELEMENT OF DAMAGE — PARASITIC DAMAGES IN ACTION OF TRESPASS. — The plaintiff's landlord, wrongfully entering her premises, frightened her badly by a violent disturbance. There was no physical injury either simultaneous with the fright or resulting from it. *Held*, that in an action for the wrongful entry the plaintiff may recover for her mental suffering. *Nordgren* v. *Lawrence*, 133 Pac. 436 (Wash.).

The principal case does not involve the question of whether mental suffering is sufficient damage to sustain a cause of action for negligence without physical impact. *Cf. Spade* v. *Lynn & Boston R. Co.*, 168 Mass. 285. It rests on the principle, now quite widely accepted, that where an independent cause of action exists, mental suffering is a proper element of damage. *Bouillon* v. *Laclede Gaslight Co.*, 129 S. W. 401, 148 Mo. App. 462; *Tennessee Cent. R. Co.* v. *Brasher's Guardian*, 97 S. W. 349, 29 Ky. Law Rep. 1277. A common illustration is a suit for wrongful ejection from railway premises under humiliating circumstances. *Davis* v. *Tacoma Ry. & Power Co.*, 77 Pac. 209, 35 Wash. 209. Another is the mutilation or the disinterment of a corpse. *Larson* v. *Chase*, 50 N. W. 238, 47 Minn. 307. The limitation, that the mental suffering must have been wilfully inflicted, seems to be applied in some jurisdictions. *Wyman* v. *Leavitt*, 71 Me. 227; *Buchanan* v. *Stout*, 108 N. Y. Supp. 38. It is submitted that this is incorrect. Granting that the act was wrongful in the legal sense, and that fright is damage, the plaintiff should recover for all proximate mental suffering. The danger, made much of in analogous cases, of a multitude of groundless suits based on mental injury alone is not present here, since the plaintiff is already in court on a good cause of action. *Cf. Spade* v. *Lynn & Boston R. Co.*, 168 Mass. 285; *Dulieu* v. *White*, 2 K. B. 669. The fact that such damages would not have been allowed in a technical action of trespass does not seem to trouble modern courts.

DEATH BY WRONGFUL ACT — DAMAGES IN STATUTORY ACTION — RIGHT OF DAUGHTER NOT SUPPORTED BY FATHER, TO SUE FOR HIS DEATH. — An administratrix sues under the Employers' Liability Act for death negligently caused. One of the beneficiaries was a married daughter who had not been supported by the deceased. *Held*, that there can be no recovery for the benefit of the non-dependent child. *Gulf, Colorado, & Santa Fe R. Co.* v. *McGinnis*, 228 U. S. 173.

This case is interesting as showing that the Supreme Court regards recovery under the Employers' Liability Act as a new right given to the beneficiaries through the administrator as representative, and not as a right left as a legacy by the deceased. It being a right of the beneficiaries, damage to them must be shown for a recovery. For a discussion of the principles here involved, see 21 HARV. L. REV. 636.

DEATH BY WRONGFUL ACT — DEFENSES TO STATUTORY LIABILITY — EFFECT OF CONTRIBUTORY NEGLIGENCE OF BENEFICIARY. — Under the New York statute an administrator sues a street railway company for negligently causing the death of his intestate. The administrator was the sole beneficiary under the death statute, and his negligence had contributed to the disaster. *Held*, that the plaintiff may recover. *McKay* v. *Syracuse Rapid Transit Co.*, 101 N. E. 885 (N. Y.).

There are two types of death statutes. When the right of action is given to the next of kin as such, it is law everywhere that his contributory negligence will bar. *St. Louis, I. M. & S. R. Co.* v. *Freeman*, 36 Ark. 41; *Baltimore & Ohio R. Co.* v. *The State*, 30 Md. 47. When the right of action is given to the administrator for the benefit of the next of kin, here again the weight of authority is that the contributory negligence of the beneficiary is a bar. *Richmond, etc. R. Co.* v. *Martin's Adm'r*, 102 Va. 201. In a few jurisdictions, however,